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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Report on the situation of human rights in the Republic of Croatia submitted by Ms. Elisabeth Rehn, Special Rapporteur, pursuant to Commission resolution 1997/57

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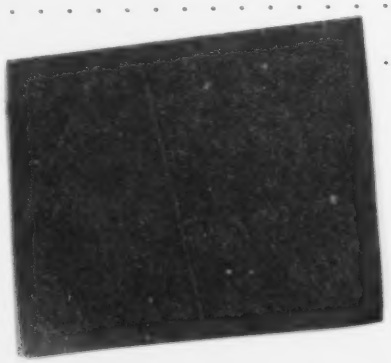

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Introduction

1. The present report considers human rights developments in the Republic of Croatia from January to September 1997. Since her last published report of 29 January 1997 (E/CN.4/1997/56) the Special Rapporteur of the Commission on Human Rights, Mrs. Elisabeth Rehn, has conducted four fact-finding missions to Croatia. She has been assisted in information-gathering and analysis by the field offices in Zagreb and Vukovar of the Office of the United Nations High Commissioner for Human Rights.

2. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/57 in which it requested the Special Rapporteur to focus her future activities on prevention and reporting of violations of, and lack of action to protect, all human rights and fundamental freedoms by governmental authorities, particularly violations that exacerbate ethnic tension, and on protecting the rights of persons belonging to minorities, women and vulnerable groups such as children and the elderly, particularly their right to return to their homes in safety and dignity. She was also requested to contribute to efforts for the building of democratic institutions and the improvement of the administration of justice.

3. At the same session the expert member of the Working Group on Enforced or Involuntary Disappearances in charge of the special process on missing persons in the former Yugoslavia, Mr. Manfred Nowak, resigned, and the mandate for the expert's activities was terminated. The mandate of the Special Rapporteur, however, was expanded to include consideration of the question of missing persons. The present report accordingly contains a discussion of this important issue.

4. During her missions to the Republic of Croatia, the Special Rapporteur has endeavoured to meet people from all sectors of society. She has held discussions with the President of the Republic, the Deputy Prime Minister and Minister for Foreign Affairs and other key ministers, leaders of opposition parties, representatives of international and local organizations, religious community leaders, the Ombudsman, members of the High Judicial Council, and members of the diplomatic corps. Her missions have also provided opportunities to visit refugee camps, small villages, schools, medical centres and religious sites, to learn first-hand about the human rights situation.

5. The present report is based on information compiled from a variety of sources by the Special Rapporteur and the Zagreb and Vukovar offices of the Office of the United Nations High Commissioner for Human Rights. It takes into account documents and materials provided by the Government of Croatia, including an aide-mémoire of 13 August 1997 prepared by the Ministry for Foreign Affairs. Additional information has been provided by international and local non-governmental human rights organizations active in Croatia. Local NGOs which have been especially helpful include the Croatian Helsinki Committee for Human Rights, the Anti-War Campaign, the Serb Democratic Forum, the Dalmatian Committee for Solidarity, HOMO, the Committee for Human Rights in Zagreb, Pakrac and Karlovac, Otvorene Oci (Open Eyes), Papa Giovanni XXIII, and the Civic Committee for Human Rights.

6. The Special Rapporteur notes that she would be unable to implement her mandate without the invaluable support of field staff of the Office of the United Nations High Commissioner for Human Rights. Although hampered by financial and administrative constraints, the field operation has successfully accomplished a number of tasks, including compiling information on the human rights situation; verifying information received, including through investigative missions; alerting the Special Rapporteur to trends and developments so that she might take timely action; and organizing the Special Rapporteur's missions. The Special Rapporteur hopes to continue to receive the assistance of the Office of the United Nations High Commissioner for Human Rights and urges Governments to continue their financial support of its field activities. She notes as an encouraging development the recent integration of the High Commissioner's field presence in Vukovar with the human rights unit of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES).

7. The present report reflects some changes in format. In her previous reports the Special Rapporteur has considered the human rights situations in the four countries covered by her mandate (Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia) in single, comprehensive documents. However, to present a more thorough evaluation of the human rights situation in each of these countries, and in recognition of their different circumstances, she has decided to submit separate country reports.

8. The present report reviews developments in Croatia since the Special Rapporteur's last general report of January 1997. Major human rights concerns related to the region of Eastern Slavonia, Baranja and Western Sirmium, still under United Nations administration at the time of writing, have been incorporated. Despite the single-country approach taken with the present report, the Special Rapporteur recalls the interdependence of the human rights situations, in particular, of Croatia, Bosnia and Herzegovina, and the Federal Republic of Yugoslavia.

9. The Special Rapporteur wishes to reiterate her appreciation to the authorities of the Republic of Croatia, as well as local and international organizations operating in the field, for their cooperation in the implementation of her mandate.

I. LEGAL PROTECTIONS IN THE REPUBLIC OF CROATIA

A. Relevant provisions of the Croatian Constitution

10. The Constitution of the Republic of Croatia, adopted in December 1990, declares that "freedom, equal rights, national equality, love of peace, social justice, [and] respect for human rights" are among the highest values of the constitutional order of the Republic of Croatia (art. 3). The principle of the separation of the legislative, executive and judicial powers is guaranteed. The Constitution guarantees freedom of movement, expression, and the media, as well as the right to property, peaceful assembly and asylum. In addition, article 15 guarantees that members of "all nations and

minorities" shall have equal rights in Croatia and that they will be "guaranteed freedom to express their nationality, freedom to use their language and script, and cultural autonomy".

11. In December 1991, the Parliament of the Republic of Croatia adopted the Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia. The law (including March 1992 amendments) provided for the proportional representation of minorities in Government and a special status for districts with a Serb majority. In September 1995, however, several articles of this law were suspended by Parliament in the wake of Croatia's military operations to regain control of formerly Serb-controlled areas of its territory, known as United Nations Protected Areas (UNPAs). Among the articles suspended was that which provided special status to districts in Croatia where members of ethnic and national communities, or minorities, represented the majority of the population according to the 1991 census (art. 12), and another which entitled members of national and ethnic communities comprising at least 8 per cent of the population to proportional representation in Parliament, the Government and the judiciary (art. 18).

12. The adoption of this special constitutional law was seen as one of the primary conditions for international recognition of Croatia. The decision to suspend key provisions cast doubt on the extent of protection that would be accorded to minorities in Croatia, and in particular, to Croatian Serbs.

B. Human rights treaty obligations

13. The Republic of Croatia is a State party to some 36 international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights (including its two Optional Protocols); the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention relating to the Status of Refugees, and its 1967 Protocol; and the Convention on the Rights of the Child. Croatia was admitted as a member of the Council of Europe in November 1996, and the Government has signed the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, accepting the competence of the European Commission on Human Rights and the European Court of Human Rights. Croatia has also signed the Framework Convention for the Protection of National Minorities.

14. In conformity with its obligations under several of these instruments, Croatia has submitted reports within the last three years to a number of treaty bodies, including the Committee against Torture (CAT/C/16/Add.6), the Committee on the Rights of the Child (CRC/C/15/Add.52) and the Committee on the Elimination of Racial Discrimination (CERD/C/249; see also CERD/C/46/Misc.12/Rev.2). In the course of 1997, Croatia should submit updated reports to relevant treaty bodies. Reports under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights reportedly are being prepared.

C. National institutions

1. The Ombudsman

15. The institution of the Ombudsman was established in Croatia in 1992. The Constitution provides for an Ombudsman "who shall be a commissioner of the Croatian Sabor (Parliament), and shall protect the constitutional and legal rights of citizens in proceedings before government administration and bodies vested with public powers". The Ombudsman is elected by the Parliament's Chamber of Representatives for a term of eight years. He or she is to be provided with three deputies, also elected by the Chamber of Representatives upon the Ombudsman's nomination. The number of deputies may, in the future, be raised to nine. The Ombudsman can act upon individual complaints of human rights violations as well as on his own initiative, based on other sources of information such as the media. He should have access to all official documents upon request.

16. The office of the Ombudsman, particularly since the appointment of Mr. Ante Klaric in 1996, has proved to be an important institution, although further improvements are needed. The present Ombudsman has considerably enhanced the image of the institution and established a solid network with most government bodies as well as national NGOs.

17. In a meeting with the Ombudsman in June 1997, the Special Rapporteur expressed particular appreciation for his report, submitted to the Government on 7 April 1997, on the situation of human rights in the areas of Knin and Donji Lapac in the former Sector South. The report concluded that security conditions, regarding both the safety of citizens and property, were unsatisfactory, and that a large number of Croatian Serbs were unable to regain access to their properties confiscated on the basis of the Law on the Temporary Takeover and Administration of Specified Property, though the law provides for the protection of abandoned property and not its dispossession. In his report the Ombudsman appealed for greater security in the former Sectors and a revision of the property law.

18. The Special Rapporteur noted the response of the Government on 23 April 1997 to the Ombudsman's report, in which it indicated that the Ministry of Interior had received orders to "increase the presence of police officers" in former Sector South. However, whether the Government will implement other recommendations of the Ombudsman remains to be seen. The Special Rapporteur has welcomed the suggestion that she and the Ombudsman undertake a joint mission during an upcoming visit to Croatia.

2. The Constitutional Court

19. The Constitutional Court was established on 5 December 1991. It consists of 11 judges elected by the House of Representatives, at the recommendation of the House of Counties, for terms of eight years. The competence of the Court, according to article 125 of the Constitution, includes decisions on the conformity of laws with the Constitution and the protection of constitutional freedoms and the rights of man and citizen.

20. The Constitutional Court has made numerous important rulings affecting human rights, including decisions on the acquisition of Croatian citizenship, evictions conducted by serving and former members of the military, and freedom of the press. The Court has also overturned many decisions, such as those affecting the appointment of judges by the Supreme Court and the Media Law of 1992, and has thus become an important counterbalance to the executive and legislative powers. Although there is general satisfaction with the Court, concern has been expressed over proposed changes to the procedure for the appointment of its president, and initiatives to limit the Court's activity and autonomy. The Special Rapporteur believes that these initiatives could seriously undermine the Court's independence, which until now has been a positive factor in Croatia.

3. The Parliamentary Committee for Human Rights

21. The composition of the Parliamentary Committee for Human Rights should reflect the party distribution in the House of Representatives. The Committee is empowered to initiate proceedings before competent authorities, bring human rights issues to the attention of the media, and issue recommendations. The Special Rapporteur has little information, however, on any impact that this institution might have had on the protection of human rights in Croatia.

4. The Governmental Office for Ethnic and National Minorities

22. The Governmental Office for Ethnic and National Minorities was established in 1991 to facilitate development of government policy and help promote harmonious inter-ethnic relations. Although the Office was meant to strengthen tolerance and mutual understanding, especially among young schoolchildren, it remains without a strong public presence.

23. Field staff of the High Commissioner for Human Rights have met with staff of the Governmental Office for Ethnic and National Minorities and discussed ways in which the institution could involve itself more in policy and legislative review so as to strengthen mechanisms to protect minority rights. It was agreed that particular attention should be paid to the media and to close working relations with NGOs and the religious community. A council on ethnic communities or minorities, to which each group has the right to appoint a representative, has been established to formulate recommendations.

II. ECONOMIC, SOCIAL AND CULTURAL CONSIDERATIONS

A. The state of the economy

24. The economy of the Republic of Croatia is slowly recovering from the war years. Gross domestic product (GDP) is estimated, unofficially, to have grown by around 4 per cent in 1996/97, largely due to recoveries in tourism and construction. These vital areas were among those severely disrupted in 1991, and they continued to suffer after the military and police operations of 1995. However, construction activity and earnings from tourism continue to increase compared with pre-1991 figures. There were small increases in industrial and agricultural output in 1996-1997.

25. A large part of Croatia's economy has been privatized, with the exceptions of the banking, energy, utilities and defence industries. The President of the Republic has pledged to raise employment levels and GDP to ensure better living standards. However, hasty privatization reportedly has created a small and wealthy elite closely linked to the ruling Croatian Democratic Union (HDZ) party, while the majority of the people struggle to make ends meet.

26. The widening gap between rich and poor has led to dissatisfaction among a large section of the population. Unemployment continues to rise. As of June 1997, the unemployment rate was some 16.5 per cent, with almost 268,000 persons unemployed. In the former Sectors North and South, the state of the economy and infrastructure are dire, while unemployment is exceedingly high.

27. Under present policies, any improvement in the overall economic situation would probably have minimal impact on Croatian Serbs in the former Sectors North and South, most of whom are elderly and poor. Discrimination by employers against Serbs continues to be reported in the workplace, including against partners in mixed marriages. For example, a Croat radiologist married to a Serb reportedly was refused a job in Pakrac Hospital, in the former Sector West, and was discreetly advised to obtain a divorce before she could get the job. The chances of unemployed Croatian Serbs finding gainful employment in State-run institutions remain abysmally low. NGOs in the area of Western Slavonia have reported that none of the medical workers registered at the region's unemployment bureau has received offers from local medical institutions, despite a high demand for workers.

28. In recent months some progress in restoring basic infrastructure, such as electricity, has been achieved in the former Sectors. Other facilities, including telephone and transport services, must be dealt with urgently. In the area of reconstruction assistance, imbalances continue, with assistance channelled mainly to newly settled ethnic Croats. For example, in a return movement organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNTAES at the end of March 1997, approximately 25-30 Croatian Serbs returned from the region of Eastern Slavonia to their homes in the village of Krbavica, former Sector South. As of August 1997, they still lacked basic needs such as electricity and running water. Destroyed houses in Western Slavonia are being reconstructed, with some discrepancies among beneficiaries: in general, priority has been given to ethnic Croats. Reports by international observers state that in Pakrac, former Sector West, a few Serb houses belonging to those with official connections have been repaired.

29. In July 1997, the World Bank announced an indefinite delay of a $30 million loan to Croatia, followed a week later by a postponement by the International Monetary Fund of discussion on the release of part of a $486 million credit. Croatia's policies in the area of human rights, return of refugees and displaced persons, and cooperation with the International Criminal Tribunal for the former Yugoslavia were cited among the reasons for the postponements.

30. Priorities in coming years will include the regeneration of the main war-affected areas. Once reintegrated into Croatia, the region of Eastern Slavonia, rich in oil and natural gas, will play a vital role in the country's

economic recovery. Tourism will also continue to play a decisive role in the economy. A further opportunity for economic revival will come through reconstruction in Bosnia and Herzegovina, which will benefit Croatia.

B. Education

31. In addition to dealing with problems presented by a lack of financial resources, the educational sector must address the delicate task of remaining sensitive to students' social and cultural backgrounds. Recent information indicates an increase in the influence of Catholicism in the classroom, although Croatia has no State religion. At the primary level, religious instruction by Catholic priests for Catholic - and usually Croat - children is generally obligatory, while children of other religious and ethnic backgrounds have the option of attending equivalent "moral science" classes. It has been reported that subtle pressures are sometimes put on children to attend classes in religious instruction given by Catholic priests, to avoid feeling different from fellow students.

32. An agreement taking into account the cultural identity of Croatian Serb children was signed on 8 August 1997 between the Government of Croatia and UNTAES on the reintegration of the region of Eastern Slavonia into the Croatian educational system. The agreement does not encroach upon the rights of Croat children in the region, ensures the rights of all ethnic minorities, and guarantees to Croatian Serbs bilingual school certificates in the two alphabets. It further provides for fair and unbiased appointment of school principals in local schools, instruction in Serbian history and culture, and classes in the Serbian language and alphabet from the first grade. In elementary schools in the rest of Croatia, 600-700 Croatian Serb pupils reportedly have registered for supplementary education in Serbian literature and history.

33. The Special Rapporteur has learned about recent initiatives undertaken by UNICEF together with the subcommittee for children's rights of the Croatian Parliament to promote the principles of the Convention on the Rights of the Child as well as to organize psychosocial assistance programmes for traumatized children in Slunj and Hrvatska Kostajnica.

C. Religion

34. The Constitution guarantees freedom of conscience and religion and "free public profession of religious convictions". The Special Rapporteur has expressed her belief in the central importance of promoting religious tolerance in meetings in 1997 with the Catholic Archbishop and the Serb Orthodox Archbishop in Zagreb. She also emphasized this point in a meeting in Okucani, former Sector West, with a Catholic parish priest who is a Bosnian Croat refugee and who has faced criticism from indigenous local Croats for allegedly spreading a message of intolerance.

35. The Special Rapporteur has been concerned over ongoing acts of vandalism against religious sites in Croatia. A Catholic church in Ilok was the target of a bomb attack on 14 January 1997. On 25 January 1997, in Knin, some unidentified persons broke into and damaged the recently renovated Orthodox church. On 1 May 1997, fascist graffiti were discovered at a Jewish cemetery

in Karlovac. The Special Rapporteur has also learned of discriminatory treatment of members of the Islamic community who apply for Croatian citizenship, and disregard for their religious convictions and practices during service in the Croatian army.

36. The Deputy Prime Minister and President of the State Commission for Relations with Religious Communities have emphasized that Croatia fully supports religious freedoms and protects religious sites and property. A positive event took place on 15 August 1997, when some missing monastery icons from Ilok were handed over to the Catholic Bishop of Djakovo.

III. RIGHT TO SECURITY OF PERSON AND PROPERTY

A. Right to life

37. Although killings in the former Sectors have significantly decreased since her last report was issued, the Special Rapporteur has received continuing reports of the use of explosive devices and other acts causing death and serious injury. On 8 April 1997, a returnee from the Federal Republic of Yugoslavia, aged 38, died from injuries caused when a concealed device exploded in front of his house in Srednja Gora, former Sector South. On the night of 24 April two elderly Croatian Serbs were shot and killed by an unidentified person who broke into a house in Veliki Grdjevac, former Sector West. In another case in April, in Katinac, a person was killed and buried in farm humus by ethnic Croats from Kosovo, Federal Republic of Yugoslavia. Field staff of the Office of the United Nations High Commissioner for Human Rights were informed by local police that the perpetrator had been identified and was in custody.

38. The effectiveness of police measures taken to resolve these incidents and prevent such acts in the future has been inconsistent. There have been effective responses by police in some cases, particularly in the former Sector West. For example, on 8 July 1997, an explosive device was thrown into a restaurant run by a displaced Croat who had rented the premises from a local Serb in Cage, near Okucani. The perpetrators were apprehended by police and confessed to having planted seven other bombs. They have been imprisoned at the Pozega Investigative Prison and await court proceedings.

Landmines

39. It should be noted that unmarked landmines - a legacy of the hostilities of 1991-1995 - continue to inflict suffering on innocent civilians, particularly in rural areas. Nearly 11 per cent of Croatian territory is strewn with an estimated 2-3 million mines. Some 10 per cent of all cultivable land in the country is inaccessible because of mines. From 1991 to 1995, about 400 civilians were killed by mines and more than 1,000 wounded. According to UNICEF, at least 76 children were killed and 130 wounded in the 12-month period from March 1993 to March 1994.

40. Consequently, mine clearance - a slow and painstaking process - has become a top priority of the Government of Croatia. The recently established Commission on Mine Clearance and the Croatian Mine Centre are among the national institutions responsible for systematically clearing all landmines

and reducing the risk of further casualties. In addition, international agencies, such as the United Nations Mine Action Centre (MAC), attempt to coordinate and advise the Government on mine clearance and raise mine awareness. By the end of July 1997, systematic mine clearance had covered several square kilometres in the region of Eastern Slavonia, involving the inspection of 3,530 houses and the removal of 5,979 mines.

B. Right to personal security

41. In spite of efforts reported by the authorities to deploy larger police patrols, the security situation in the former Sectors remains unsatisfactory and looting has continued on a large scale. For example, in April 1997 in Kistanje, former Sector South, widespread looting was reported to have been carried out by resettled ethnic Croats from Kosovo. In Benkovac and Gracac disturbing trends were observed at about the same time, including escalating harassment and violent assaults committed against local Croatian Serbs, many of whom are elderly.

42. In the former Sector West, although the security situation has improved, some abuses against Croatian Serbs continue to be reported. The Special Rapporteur, in a letter of 7 April 1997 to the Government, expressed concern over incidents of 14 March 1997 in which three persons were badly beaten and other Serb citizens attacked and harassed in Okucani. She was later pleased to learn that the suspected perpetrators were arrested and, after a police investigation, charged.

43. In the former Sector North, because of an influx of returnees from the region of Eastern Slavonia, it is feared that the security situation could deteriorate. International observers in Dvor have reported that looting, harassment and intimidation continue. On the night of 23 April 1997, in Kotorani village, three armed men threatened an 80-year-old Serb remainee and looted possessions she had received as humanitarian aid. On 20 May 1997, an elderly man was severely injured in Blinjska Greda in an assault by four unidentified men. He later died in the Sisak hospital. Investigations into the incident are still pending.

44. The Special Rapporteur has received documentation from the Croatian Helsinki Committee for Human Rights (HHO) concerning 150 cases of human rights abuses against Croatian Serbs, including harassment, looting and murder, which occurred in Croatia between April and June 1997. In a statement of 18 July 1997, HHO alleged that several persons were killed during this period "in a way which raises suspicion of a possible political motivation", and that acts of terrorism involving the planting of explosive devices in barns, houses, fields "and even pillows" were being carried out by "well-organized terrorist groups" in the area of Gracac and Udbina, former Sector South. The Special Rapporteur, in meetings with the Croatian authorities, has reiterated that the rule of law must be fully guaranteed in the former Sectors.

C. Humanitarian concerns

45. International humanitarian organizations working together with the Croatian Government and the Croatian Red Cross in the Government's "Let's Save

Lives" programme were generally successful last winter in meeting the most urgent humanitarian needs of isolated individuals living in the former Sectors, particularly Croatian Serbs. However, without the intensive efforts of international organizations, including UNHCR, the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies and others, many lives would have been at risk. The Special Rapporteur believes that the suspension of these humanitarian programmes for the coming winter due to lack of funds would seriously jeopardize many lives in the former sectors.

D. Right to property

46. The issue of Croatian Serbs' property affected by the Law on the Temporary Takeover and Administration of Specified Property remains a serious cause for concern. The Law applied to houses and other property in the former Sectors which belonged to persons who left Croatia after 17 August 1990, or who stayed in Serb-controlled areas of the country; it also applied to unoccupied property anywhere in Croatia owned by citizens of the Federal Republic of Yugoslavia.

47. Thousands of Croatian Serbs who applied within the time limit established for return to Croatia in order to reclaim confiscated properties have faced various obstacles to their actual return, or had their entry obstructed at the Croatian border. Many Croatian Serb refugees were thus unable to reclaim their properties in the allotted time. Although local municipalities set up property claims commissions, they have been ineffective. By March 1997 not a single case brought before the commissions had resulted in a Serb owner regaining possession of a property. The few cases in which Croatian Serb refugees were able to regain their properties were generally resolved through private negotiations, involving property exchanges. Even if the original owner were to win a case before a local commission, provisions of the Law could prevent eviction of temporary residents until alternative accommodation is found.

48. The property law placed abandoned properties under State administration, and many houses were given over to newly arrived Croat settlers. Although Croatian Serbs can seek redress through the legal system, it has been almost impossible for the great majority to regain access to their properties. In some cases, Croatian Serb refugees reportedly have been compelled to pay up to DM 5,000 to temporary occupants of their properties before regaining possession.

49. The sale of Croatian Serb property to ethnic Croat refugees has become widespread. On 24 April 1997 the Government established the Agency for Mediation in Transactions with Specified Real Estate, responsible for facilitating the sale and exchange of abandoned property in the former Sectors. The Agency mediates between owners and other interested persons and is authorized to purchase real estate on its own against the account of the Republic of Croatia. However, there are serious misgivings concerning the Agency's record since, it is alleged, it has obliged Serb owners to sell their properties at excessively low prices. According to the Government's aide-mémoire of 13 August 1997, some 3,587 families living in the region of Eastern Slavonia have requested the sale or exchange of their properties. The

trend led the Deputy Minister for Development and Reconstruction, in a published interview of 11 August, to say that most Croatian Serbs were returning not for love of their homeland but to claim their properties.

IV. RIGHT TO RETURN

50. The question of return continues to be a contentious issue in Croatia. The authorities have encouraged the immigration of some 180,000 Bosnian and Kosovo Croats while another 80,000 ethnic Croats are expected to arrive from Germany. It will be recalled that as many as 200,000 Croatian Serbs fled to the Federal Republic of Yugoslavia and Bosnia and Herzegovina after Croatia's military actions in the former Sectors West, North and South in 1995. According to an aide-mémoire of the Government from April 1997, the Office for Displaced Persons and Refugees (ODPR) had received a total of 34,000 applications from persons who left Croatia during these military operations and who wished to return. In a letter to the Special Rapporteur dated 29 April 1997, the Government stated that "a total of 15,276 persons have returned to the Republic of Croatia having left during the military operations. These figures do not include those who have returned through unorganized means, i.e. on an individual basis and utilizing passports issued through either Embassies/Consulates abroad or temporary administrative bodies in the Croatian Danube region".

51. As noted above, the Special Rapporteur has learned about several violent incidents affecting returnees. For example, on 27 February 1997 in Vojnic, former Sector North, some 100-150 Croats from Bosnia and Herzegovina gathered to demonstrate following a rumour of the arrival of several bus-loads of Croatian Serb returnees. The demonstration was followed by bomb attacks and anti-Serb graffiti, such as "Death to the Serbs" and "Serbs Out", on at least 11 buildings. On 13 May 1997, a serious incident in Hrvatska Kostajnica, former Sector North, was sparked by the voluntary return of nine displaced persons from Eastern Slavonia, provoking some 150 ethnic Croat settlers from Orasje (Bosnia and Herzegovina) to riot. Armed with stones and wooden sticks, they attacked and beat the returnees, destroyed their homes and ransacked their personal possessions. The Government attributed this incident to the "spontaneity" of the return, which occurred outside the framework of an agreement for organized returns signed by the Government with UNTAES and UNHCR on 23 April 1997 (see section VIII-C below). The Special Rapporteur, in a letter of 19 May 1997 to the Deputy Prime Minister, strongly protested about this incident. Although the Government expressed regret and stated that charges had been filed against 10 of the rioters, as of September 1997 no information had been received on whether convictions were obtained.

52. The Special Rapporteur is concerned about restrictive conditions imposed on return to the country by Croatian Serb refugees in possession of valid Croatian citizenship certificates, the domovnica. Refugees who intend to repatriate, whether with the help of UNHCR or spontaneously, on the basis of a domovnica, are no longer able to cross the border without first obtaining additional travel documents from a Croatian embassy abroad. However, there is no established procedure for Croatian citizens to obtain valid passports or travel documents from Croatian embassies in neighbouring countries. In addition, Croatian embassies do not accept applications for a domovnica.

53. The UNHCR/ICRC programme for Extremely Vulnerable Individuals (EVI) has facilitated the return of a small number of refugees from the Federal Republic of Yugoslavia for reunification with their families in Croatia. As of 6 August 1997, only 172 of the 1,376 potential returnees whose applications were submitted by UNHCR for government approval have been cleared for return. Furthermore, as of August 1997 the Government Office for Displaced Persons and Refugees (ODPR) had issued no clearances for EVIs for several months.

V. ADMINISTRATION OF JUSTICE

A. The courts

54. Several articles of the Croatian Constitution establish that the judicial power shall be autonomous and independent. The Supreme Court, as the highest court, shall ensure uniform application of laws and equality of citizens. Judges and public prosecutors are to be appointed and relieved of duty by the High Judicial Council.

55. According to information received by the Special Rapporteur, there is a lack of effective guarantees for an independent judiciary, and improper pressures have been exerted to secure the appointment or dismissal of judges. As described in her previous report of 29 January 1997, concerns were raised by the dismissal of Mr. Krunoslav Olujic, President of the Supreme Court, following a disciplinary action for alleged serious offences and causing damage to the dignity of a court. Judge Olujic denied the charges and appealed against the dismissal, which he described as politically motivated. However, the High Judicial Council, by a decision of 14 January 1997, cited Mr. Olujic for behaviour injurious to the reputation of the Court. According to reliable information, Mr. Olujic had been viewed by the Government as politically unreliable, since one of his functions as head of the Electoral Commission would have been to certify the results of upcoming county and municipal elections.

56. In a letter of 14 March 1997 to the Minister for Foreign Affairs, the Special Rapporteur noted that although Croatian law normally provides for life appointments for judges, many judges have been relieved of their posts by the High Judicial Council. Some of the Council's decisions had been criticized as being motivated more by the national origin or political views of the judges than by questions of professional competence. The dismissal of nine highly experienced public prosecutors, allegedly due to their ethnicity, in April 1997 cast further doubt on the independence of the judicial system. The incident led the Croatian Helsinki Committee for Human Rights to refer in a public statement to "a sophisticated ethnic cleansing of the Croatian judiciary".

B. Detention and the amnesty law

57. As observed in previous reports of the Special Rapporteur, the adoption of a general Amnesty Law on 25 September 1996 was a positive, confidence-building step both for the return of Croatian Serb refugees and for the peaceful reintegration of the Eastern Slavonia region into the rest of Croatia.

58. The legislation applies to persons accused of or sentenced for criminal acts committed in connection with aggression, rebellion or armed conflict between 17 August 1990 and 23 August 1996. Criminal investigation or proceedings related to such acts were to be nullified and any detained persons to whom the amnesty applied were to be released. The legislation exempted from its coverage alleged perpetrators of war crimes. The Special Rapporteur had expressed concern following cases of re-arrest after the implementation of the amnesty law. As noted in her last report, 27 persons were re-arrested immediately or within days of their release. As of the writing of the present report, six of those persons were still in custody.

59. It should be recalled that the Security Council, in a Presidential Statement of 19 March 1997 (S/PRST/1997/15), called upon the Government of Croatia to remove uncertainty about implementation of the amnesty law, in particular, by finalizing without delay its list of war crimes suspects on the basis of existing evidence and in strict accordance with international law, and to put an end to arbitrary arrests, particularly of Serbs returning to Croatia. The application of the amnesty law, however, continues to cause widespread concern among the Serb population.

60. The Special Rapporteur has expressed deep concern regarding war crimes trials in which, despite a lack of credible evidence, defendants have been convicted. In one case, Milos Horvat, a Croatian citizen from the Baranja region, was extradited from Germany and stood trial for war crimes in June 1997. After a brief trial, the jury found Mr. Horvat guilty of genocide, mostly on the basis of his association with the Territorial Defence Headquarters (TDH) of his village, a body that was said to have engineered massive displacements of Croats. He was sentenced to five years in prison. It was the widely held opinion of trial monitors that the evidence submitted by the prosecution was insufficient for a guilty verdict, especially on a charge as serious as genocide. In particular, Mr. Horvat's association with the TDH was alleged to be slim. The legal definition of the term "genocide" relied upon by the prosecution also was the subject of controversy. If, on appeal, the Supreme Court upholds the verdict, it would set a disturbing precedent, whereby all Serbs associated with the TDH would be liable to prosecution for genocide.

61. Mr. Horvat's lawyer in Germany had initially contacted the International Criminal Tribunal for the former Yugoslavia (ICTY) and asked it to review the extradition request, but was told that the decision rested solely with the competent German magistrate. International observers have since called on the ICTY to exercise some control over the prosecution of war crimes by the Government of Croatia. They have argued that the ICTY's involvement in such situations would have a confidence-building effect among Croatian Serbs. The proceedings and outcome of Mr. Horvat's war crimes trial highlight the potential importance of the ICTY's involvement.

62. The ICRC continues to visit regularly some 79 persons detained in relation to the conflict in Croatia. Of 18 prisoners of war previously held in various detention centres, 17 have now been released and were transferred between April and July 1997 to the Republika Srpska, Bosnia and Herzegovina.

It should be noted that the ICRC has organized, for the first time, eight family visits to nearly 25 detainees in Croatia whose family members are in the Eastern Slavonia region.

C. Cooperation with the International Criminal Tribunal

63. According to the Office of the Prosecutor, the Government of Croatia's cooperation with the International Criminal Tribunal for the former Yugoslavia has produced little of substance. While it repeatedly asserts its willingness to provide assistance, the office has reportedly encountered delays in many aspects of its involvement with relevant authorities, despite the appointment of the head of the Government Office for Cooperation with the ICTY. The Government continues to criticize the ICTY for allegedly blaming all sides equally. A former Croatian member of the collective Presidency of the Socialist Federal Republic of Yugoslavia was widely condemned in the Croatian media as a "traitor" after he provided testimony to the ICTY concerning Croatia's involvement in the conflict in Bosnia and Herzegovina.

64. In recent months, attention has focused on the subpoena duces tecum addressed to the Government of Croatia to obtain documents deemed necessary for the prosecution of former Bosnian Croat General Tihomir Blaskic. The Government appealed against the Trial Chamber's order to the Government to comply, stating that the order amounted to a violation of State sovereignty.

65. The Government remains under pressure to fulfil all its obligations under the 1995 Dayton Agreement, particularly with regard to the extradition of indicted war criminals. The authorities had declared that they knew of no indicted war criminals on Croatian territory and that those found would be extradited. In August 1997 one such suspect, Pero Skopljak, indicted for crimes committed in the village of Ahmici, Bosnia and Herzegovina, was arrested in Samobor and was detained in Croatia as of September 1997.

VI. MISSING PERSONS

66. The issue of missing persons remains one of the most pressing human rights concerns in Croatia. The Special Rapporteur, whose mandate was expanded this year to include the issue, has made clear on numerous occasions that resolution of the fate of the missing is one of her primary concerns. She has regularly met with relatives and associations of missing persons as well as with government officials and international organizations involved in the issue.

67. According to government figures, 2,242 persons are registered as having gone missing in Croatia during the conflict. A total of 1,346 bodies have been exhumed from mass graves in the former Sectors, of which 1,075 have been identified (670 males and 405 females).

68. The Government Commission for Detained and Missing Persons and the Federal Republic of Yugoslavia's Commission for Humanitarian Issues and Imprisoned Persons held a joint meeting in March 1997 to accelerate resolution of cases of missing, abducted or detained persons. A key outcome of the meeting was to have been an increased number of "identification protocols" -

or autopsy reports - on both identified and unidentified people killed in the Vukovar area in 1991, along with the opening of medical records in the hospital at Vukovar.

69. On 18 June 1997, the two Commissions met in Zagreb to exchange more information and medical records. The Croatian side - which so far has received only half of a total of 1,150 medical records from the Federal Republic of Yugoslavia - expressed concern about the procedures established for receiving the records. However, hope remains that the fate of the missing will ultimately be determined since the search process, which had been blocked for over four years, is finally under way. The Government Commission has indicated that 11 mass graves have been located in the region of Eastern Slavonia, the largest being Ovcara with some 200 mortal remains and Lovas with 68. A further six mass graves have been located in Banovina and Western Slavonia in which remains of several hundred people were found.

70. The Special Rapporteur is aware that insufficient progress has been achieved so far on this matter and has pointed out that all parties must provide their full assistance and cooperation for the future. In a meeting with the President of the Republika Srpska, Bosnia and Herzegovina in June 1997, she personally intervened in the case of Rudolph Peresin, following a meeting with his wife the same month. On 4 August 1997, Mr. Peresin's body was finally handed over to the Croatian authorities.

VII. OTHER HUMAN RIGHTS CONCERNS

A. Right to a nationality

71. There continue to be reports of discriminatory measures applied in the acquisition of Croatian citizenship. Among the prerequisites for citizenship, set out in article 8 of the Law on Citizenship, is proof of continuous residence in Croatia of at least five years and "proficiency in the Croatian and Latin script". The Special Rapporteur has noted the use of this provision as a pretext to deny citizenship to Croatian Serbs, many of whom have been long-time residents in Croatia. Additionally, article 26 of the Law provides the Ministry of Interior with broad discretion in denying a petition from an applicant, although the prerequisites have been met, on grounds of the interest of the State. The interpretation of both legal provisions have raised concerns, since many citizenship applications have been rejected.

72. Both Serbs and Muslims are reported to suffer from denial of citizenship. The Special Rapporteur has recently received information about one Muslim who had lived in Croatia for almost 30 years whose application for citizenship was denied. In another case, a woman from Rijeka, born in Croatia in 1974, left Croatia for two years when the war started in 1991 and is now facing serious administrative obstacles in obtaining citizenship.

73. The situation regarding citizenship applications by persons living in the region of Eastern Slavonia is discussed below (sect. VIII.F).

B. Freedom of expression

74. Questions related to media freedom continue to cause concern despite important laws protecting free expression, including provisions of the Constitution, the Radio and Television Act, the Law on Public Information, the Law on Telecommunications and Post, and other measures obliging the authorities to act in accordance with international norms.

75. The electronic media outlet with the most important influence on public opinion in Croatia is State-owned Hrvatska Radio Television (HRT), which is the only radio and television enterprise broadcasting nationally. According to a survey by the Open Society Institute office in Croatia, nearly 55 per cent of the population views the main evening news programme on HRT, while the political opinions of some 84 per cent of the viewers are influenced by this programme, which is "tightly controlled" by the ruling Croatian Democratic Union (HDZ).

76. The print media - comprising some 820 newspapers and journals, according to the Croatian Telecommunications Council - is much more varied. Many periodicals are privately owned. However, it has been alleged that the Government has attempted to silence its critics by levying exceedingly high taxes in some cases, for example, against the daily newspaper Novi List.

77. On 17 June 1997, the election observer mission of the Organization for Security and Cooperation in Europe (OSCE), comprising nearly 100 observers, reported that the presidential election of 15 June 1997, in which more than 61 per cent of the vote was won by President Franjo Tudjman, "may have been free but not fair", and did not meet minimum democratic standards because State media - particularly television - showed favouritism towards the HDZ. This assessment was supported by a recent report on media coverage of the election by the European Institute for the Media. The report stated that while it is "neither uncommon nor illogical" for an incumbent president to have the edge in an election campaign, this advantage in the Croatian presidential elections was "so significant, especially on the national electronic media, that it became clearly unfair. When the media receive and accept specific instructions on how to cover the campaign, this becomes even more reprehensible. As far as the printed media are concerned, the dominance of the ruling party over the State-owned and -controlled media is only reinforced by the coverage of the privately owned media".

78. Nevertheless, the Government aide-mémoire of 13 August 1997 indicates that the Telecommunications Council has granted six new broadcasting concessions to "independent" radio broadcasters through a series of public tenders, bringing the total number of radio concessions issued so far to 139 and those for television stations to 14.

79. The Special Rapporteur wishes to reiterate her concern about continuing publication of materials advocating nationality-based hatred, contravening article 39 of the Croatian Constitution and international law. Materials appearing in the weekly Hrvatsko Slovo (Croatian Letter) have raised questions. Following a round table organized by the Croatian Helsinki Committee on "The Return of Serbs to Croatia", the weekly vehemently attacked the organizers. Hate speech is frequently published in the weekly

Hrvatski Vjesnik, including one passage appearing in September 1997 which mockingly referred to unloading Serbs from a truck with pitch-forks. In another comment, the editor offered a reader all of the back issues for DM 100, but added, "for Serbs the price is triple".

C. Freedom of association and assembly

80. The Constitution guarantees to all citizens freedom of association and assembly. However, under the new Law on Association, which came into force on 15 July 1997, the work of persons involved with NGOs could be jeopardized. The Law contains regulations which have caused concern since they appear to give arbitrary decision-making powers to registration bodies to decide on the future of NGOs and in some cases to disband them.

81. In addition, the Special Rapporteur notes with concern that the draft Law on Public Gatherings, expected to be adopted soon, would impose restrictive conditions on public gatherings and protests. Applications for permission to hold such events would have to be made 10 days in advance, restricting spontaneity. They would have to include a ground plan of the area in which the event was to take place, and only certain locations would be permitted for public gatherings. Additionally, gatherings could be prohibited if they were considered to endanger the legal order or to violate decency.

VIII. REPORT ON THE REGION OF EASTERN SLAVONIA, BARANJA AND WESTERN SIRMIUM

82. On 14 July 1997, the United Nations Security Council adopted resolution 1120 (1997), in which it extended the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) until 15 January 1998. In its resolution, the Council, emphasizing the importance of the obligation of the Government of Croatia to allow all refugees and displaced persons to return in safety to their homes throughout the Republic and expressing "grave concern over the lack of improvement in respect for human rights, including the rights of persons belonging to minorities, in Croatia and in particular in the former United Nations Protected Areas", called upon the Government and the local Serb community to cooperate fully with UNTAES and other international bodies and to fulfil all obligations and commitments specified in the Government's letter on the completion of peaceful reintegration of the region under the Transitional Administration region of 13 January 1997 (S/1997/27, annex).

83. The following discussion, based on information gathered by the Special Rapporteur from her three visits to the region of Eastern Slavonia, Baranja and Western Sirmium ("the Region") in 1997 and assistance provided by the Vukovar office of the Office of the United Nations High Commissioner for Human Rights (which has recently been integrated into UNTAES), considers some of the most pressing issues presently affecting the Region. Although the situation in the Region is no longer highly volatile and the Croatian authorities have made some concessions, allowing for the return of displaced Serbs from the Region and their reintegration into society, serious problems continue to arise in the implementation of the letter.

A. Elections

84. On 13 April 1997, elections were held in the whole territory of Croatia including, for the first time since 1990, the Region. Despite several technical difficulties which resulted in a 1½-day extension of the voting period, UNTAES certified the elections as free and fair. There was a high level of voter participation, raising hopes that the future of the Region will be based on democratic participation. The successful holding of the elections was an essential step for further progress in the Region's peaceful reintegration and an important milestone for the legitimate representation of the local population in the Croatian constitutional and legal system. While local Serbs have demonstrated a general willingness and determination to assume their rights and responsibilities as Croatian citizens, deep apprehensions remain.

85. A positive aspect of the election process was the considerable rise in the number of applications for and issuance of Croatian documents. During the weeks before the elections, 26 UNTAES Documentation Centres distributed citizenship documents. Since then, the number has been reduced to 10. Despite this post-election drop, the Special Rapporteur is encouraged to see that a large number of applications continue to be lodged each day.

B. Personal security

86. The security situation in the Region remains of concern in view of continuing reports of harassment of displaced Serbs. Croatian members of the Transitional Police Force (TPF) have, in some instances, colluded or actively participated in this harassment, although some corrective actions, including even dismissals, have been taken. As noted elsewhere in this report, there have also been instances of attacks on Croatian Serb displaced persons who have returned to other parts of Croatia permanently or for a visit, and of failures in some cases of the Croatian police even to attempt to apprehend the perpetrators. These incidents have caused concern among Croatian Serb residents of the Region who are considering returning to their homes elsewhere in Croatia and are discouraged by fear for their safety. UNTAES intervened strongly in one case through a letter from the Deputy Transitional Administrator to the Croatian Minister of the Interior. The letter indicated that the failure of the Croatian police to take action would impede UNTAES efforts to effect two-way return of displaced persons and ultimately the achievement of multi-ethnic coexistence in the Region.

C. Returns of displaced persons

87. The Joint Working Group on Returns, established on 23 April 1997, is composed of the Government of Croatia, UNTAES and UNHCR. It established mechanisms, known as the Joint Operational Procedures for Return, for registering and processing all requests for return into and out of the Region, disseminating information on the return process, and providing for equal treatment in safe return and property reconstruction. The agreement stipulates that all Croatian citizens with identification cards and displaced persons willing to return to their homes should register with the ODPR.

88. Since the creation of the Joint Working Group, six new ODPR offices became operational in the Eastern Slavonia region. Tensions have continued between the Region's original inhabitants and Serb displaced persons from other areas now living in the Region, despite repeated assurances from Croatian authorities that the rights of Serbs would be respected. The return of displaced Serbs now living in Croat houses in the Eastern Slavonia region is seen as a precondition for the return to the region of Croat displaced persons. According to UNHCR, as of 17 July 1997, 7,655 families representing a total of 22,071 persons in the Region had registered with ODPR and more than 50 per cent had expressed their wish to return to their homes elsewhere in Croatia. In the five months after the creation of the Joint Working Group, 912 "organized returns" of persons with official certificates for return were conducted from the Eastern Slavonia region to other parts of Croatia while an estimated 6,000-7,000 persons returned spontaneously without such certificates.

89. According to the Government's aide-mémoire of 13 August 1997, a total of 14,788 requests for the return of Croat displaced persons to the Eastern Slavonia region, affecting 42,325 persons, had been filed with ODPR. At the end of July 1997, a total of 545 families comprising 1,439 persons had received certificates for return. However, actual returns are proceeding very slowly. The authorities maintain that additional international aid for reconstruction of houses and economical revival is needed to expedite returns.

90. Despite the agreement on the Joint Operational Procedures for Return, the Special Rapporteur remains deeply concerned regarding the return of displaced persons. As noted above, a serious incident occurred on 13 May 1997 in Hrvatska Kostajnica when some 150 resettled ethnic Croats from Bosnia and Herzegovina attacked a group of returnees and destroyed and ransacked their homes. These disturbances had a negative impact on the local population of displaced persons in the Region. In fact, the Baranja Serb Displaced Persons Association decided to suspend all returns pending the improvement of security in the former Sectors elsewhere in Croatia.

91. Several cases of harassment of Serb Displaced Persons and Serb residents of the region of Osijek and the pilot return villages of Anunovac and Ernestinovo have also been reported. In addition, members of a Serb negotiating team and a Croatian human rights activist were attacked on separate occasions in Osijek. The perpetrators were believed to be members of or closely connected with the Croatian police.

92. On 5 June 1997, during the Special Rapporteur's visit to the Region, the Office of the United Nations High Commissioner for Human Rights and UNHCR organized a meeting on the issue of return. At this meeting, for the first time, associations of displaced persons from the Region and from the rest of Croatia came together to discuss issues of common concern. During the discussions, each side highlighted its frustration at the seeming impossibility of regaining possession of their rightful property, as well as fears concerning inter-ethnic violence and discrimination. The Serbian side cited instances of severe harassment at the hands of, or with the acquiescence of members of the Croatian police in the nearby town of Osijek, whereas the Croat side stated that it would feel safe in the Region only when the Croatian police took over control from the Transitional Police Force. NGO

representatives at the meeting, who are promoting joint reintegration projects where displaced persons from both sides work together on reconstruction projects, provided positive input.

93. Despite the often precarious security situation, in August 1997 returns of Croatian Serb Displaced Persons to other parts of Croatia took place on a larger scale than before, with some 70 families returning on 21 August alone. Efforts to accomplish returns to the Region have focused on reconstruction and demining work in selected villages, accompanied by town hall meetings to convey information to Croatian Displaced Persons who wish to return.

D. Discrimination

94. Discrimination against ethnic Serbs by Croatian authorities occurs in various ways, manifesting itself in the areas of employment, education, and pensions and health care, among others. Ethnic Serbs in the TPF have complained that they have been demoted, transferred or simply ignored because of their national origin. In one case, a senior Serb officer complained of his fellow officers' insistence that he always speak in the Croatian dialect. There is also evidence of discrimination against teachers. Although some dismissed Serb teachers may not have fulfilled the criteria for appointment to a teaching post, cases have been reported of highly qualified teachers who have nonetheless been terminated. UNTAES and the Croatian authorities have not yet agreed on an ethnic balance for head teachers.

95. The Special Rapporteur is also concerned about the plight of members of families of mixed origin who have long resided in the Region and remained there during the war. It has been brought to her attention that this group of people is not being duly represented in negotiations for the reintegration of the public sector, which concentrate mainly on the "pure" ethnic groups. Thus, persons who were unable to continue in their jobs during the de facto Serb regime from 1991-1995 now run the risk of not being reintegrated into their former positions, since they are neither Croat Displaced Persons (since they never left the Region) nor were they job-holders during the war years. Hence, this group may be discriminated against for the second time in six years, leaving entire families without financial support.

E. The questions of amnesty and cooperation with the ICTY

96. The application of the September 1996 amnesty law continues to cause controversy in the Region. For example, amnestied persons have not yet been cleared from police records, which creates difficulties in travel, as those with criminal records are apprehended when they attempt to cross the border. In addition, people are reported to have had difficulty gaining access to bank accounts, as some banks condition access on production of a certificate of non-criminality.

97. In June, the Croatian Ministry of Justice announced that it would carry out, in conjunction with Serb representatives from Eastern Slavonia, an investigation into 146 suspected war criminals. Although a formal agreement to this end has not been drawn up, one option under discussion is the possibility that the suspected war criminals, as well as the 25 persons already sentenced for war crimes committed in Eastern Slavonia, will be

provided with access to both prosecution and defence dossiers in order to review the charges and present their defence within the Region.

98. The Government's "final" list of 150 suspected war criminals, however, has not had the intended effect, i.e. building confidence among the Serb population. People remain uncertain as to the exact content and real meaning of the list. According to UNTAES statements, all those not on the list should consider themselves immune from future prosecution for war-related crimes. In recent comments, however, a senior Croatian government official stated that no such list even exists and that a public statement to that effect would be made shortly.

99. On 27 June the former Mayor of Vukovar, Slavko Dokmanovic, was detained by UNTAES, apprehended by ICTY agents, and immediately transferred to The Hague. Mr. Dokmanovic was the subject of a sealed indictment for involvement in the 1991 Ovcara massacre, in which some 260 civilians lost their lives.

F. Right to a nationality

100. Obtaining the necessary documents to remain in the Region continues to be a problem for some ethnic Serbs. Although the majority of people in the Region have received Croatian citizenship and identity documents, many cases of difficulty in obtaining them or outright denials have been brought to the attention of UNTAES. These include the question of workbooks, i.e. proof of previous employment in the Croatian public and private sectors. The inability of many local Serbs to obtain these workbooks has affected their chances of obtaining gainful employment, as well as their pensions.

101. A number of rejections of passport applications were reversed after appeals to the Croatian Ministry of Interior. According to the non-governmental organization Civil Rights Project, however, some 400 appeals against passport denials on grounds that include pending criminal charges and debt remain to be processed. In several recorded instances, the denials were based on articles of the Croatian Penal Code covered by the 1996 Amnesty law. In addition, the practice of verbal denials and other denials given without explanation appears to be continuing.

102. Prior to the start of the school year in September 1997, there had been complaints from parents who believed that their children would not be allowed to register in schools because the parents were unable to establish proof of residence or citizenship. This appeared to be the result of deliberate misinformation, as such a refusal would have constituted a clear violation of education rights and the policy established by UNTAES and the Government of Croatia. Under this policy, all children of school age are entitled to register in educational institutions without regard to whether their parents possess Croatian documents. Steps were taken to ensure that all parents were made aware of these rights.

G. Violations of due process

103. The Special Rapporteur remains concerned about the six individuals who have been detained for longer than six months without trial in the regional

prison in Beli Manastir. Difficulties being encountered in reintegration of the Region's judiciary make chances of an early resolution of this situation unlikely. Although she understands that the length of these detentions was the result of exceptional circumstances, the Special Rapporteur has called for a speedy resolution of the situation and urged that the cases be immediately dealt with by the Croatian courts, even pending a final solution to the problem of reintegration of the judiciary.

H. Process of reintegration

104. The Special Rapporteur noted an important seminar that was held in Graz (Austria) on 26-28 May 1997 on "Human Rights Protection by Judges and Other Legal Professionals in a Democratic Society", organized by UNTAES in view of the reintegration of the Region into the Croatian legal system. Concerns have been expressed about the need to appoint judges from the Region in proportion to their ethnic group's representation in the population. The high fees (DM 10,000) required for all lawyers to rejoin the bar pose special hardships for lawyers from the Region. They feel that because the war was responsible for their membership lapse, they should be exempted from the high fee.

105. Although Croatian legislation regarding reintegration of the local judiciary officially took effect on 1 June 1997, reintegration has not been accomplished. Two major impediments still exist. The first regards the appointment of judges, as the ethnic representation was unsatisfactory to the Serb side. The second concerns the "Law on Validation" of documents and decisions issued by the former so-called Republika Srpska Krajina courts, which is currently being debated in Parliament. It has been reported that Parliament proposes to render all decisions and documents null and void, with the caveat that they could be validated through the Croatian courts. The Special Rapporteur believes, however, that the opposite approach should be taken, i.e. that all such decisions and documents should automatically be validated and subjected to judicial review only if the decisions are deemed to be manifestly ill-founded.

106. Reconstruction efforts in the Region are fully under way, with priority being placed on the reconstruction of housing units in Vukovar and Borovo Naselje, as well as on rebuilding damaged communal buildings, such as schools and health centres. The Croatian currency, the kuna, has now been officially introduced and is in wide circulation. Furthermore, some public companies in the Region have been reintegrated with their Croatian counterparts, absorbing current employees.

107. The electricity, post and telecommunication systems in the Region have now been integrated. The main obstacles for the finalization of reintegration are related to employment contracts and political appointments to ensure adequate ethnic representation.

IX. CONCLUSIONS AND RECOMMENDATIONS

108. The security situation in the former Sectors North, South and West remains unstable, and acts of looting, harassment, discrimination and killings, sometimes by explosive devices, continue to be reported. The ongoing violence remains one of the main impediments to the return of Croatian

Serb refugees and displaced persons. Although the Croatian police presence appears to have been increased, its effectiveness varies considerably, with units in some districts reacting more promptly than others to criminal activity. The situation in the former Sectors is aggravated by difficult economic circumstances for all residents but, in particular, for Croatian Serbs who are often the victims of discriminatory practices.

109. The Special Rapporteur recommends that the Croatian police increase its activity further in the former Sectors, since the measures taken to date have not yet succeeded in restoring an environment of law and order. She furthermore recommends that the Government take affirmative steps to ensure that reconstruction and employment opportunities benefit Croats and Serbs equally. International donors should continue to insist on good-faith efforts by the Government of Croatia to improve the situation of all residents of the former Sectors, including Croatian Serbs, as a condition for continuing international loans and credits.

110. Despite increased contacts between Croatia and the Federal Republic of Yugoslavia and the agreement on the Joint Operational Procedures for Return regarding in part Croatian Serbs now resident in the region of Eastern Slavonia, there has been minimal progress on returns. The UNHCR/ICRC return programme for extremely vulnerable individuals from the Federal Republic of Yugoslavia has been virtually frozen by the Croatian authorities. The return of displaced Croats to the Region of Eastern Slavonia can only occur as part of an integrated return programme which also ensures the ability of Serbs to return to their homes elsewhere in Croatia in safety and dignity.

111. Displaced and refugee Croatian Serbs in particular face difficulties in regaining access to their properties in the former Sectors North, South and West, many of which are now occupied by Croat refugees and displaced persons. Numerous claims remain unresolved and there is serious doubt as to the effectiveness of local housing commissions set up to resolve disp[illegible]s. Despite her previous recommendation, the Special Rapporteur notes that the authorities have not suspended the Law on the Temporary Takeover and Administration of Specified Property, which continues to result in properties of Croatian Serbs being handed over to newly resettling Croats.

112. The Special Rapporteur accordingly recommends the immediate suspension of the Law on the Temporary Takeover and Administration of Specified Property, and urges the Government and local housing commissions to take effective steps to accelerate the return of Croatian Serbs to their homes, or to ensure just compensation where such return is not possible.

113. The human rights climate in the former Sectors and throughout Croatia has benefited from the good work of national and international human rights organizations as well as recent initiatives of the Croatian Ombudsman. The Government should improve channels for dialogue with these organizations, and should continue to pay close attention to them as independent observers and to their recommendations.

114. The Special Rapporteur has noted that little hope has been given the families of missing persons. She repeats her recommendation that the problem of missing persons should be dealt with as a top priority, to avoid an

impediment to the future coexistence of ethnic communities and for the peaceful reintegration of Eastern Slavonia. Despite the establishment of bilateral commissions, little progress has been achieved. She strongly urges both parties to cooperate fully and intends to monitor closely new developments following upon the excavation of mass graves.

115. The Special Rapporteur would like to emphasize the difficult situation of the most vulnerable members of the population: children and women. She is encouraged by recent initiatives undertaken in cooperation with UNICEF for the promotion of the Convention on the Rights of the Child and stresses once more that the overall welfare, health, education and social protection of children should be dealt urgently so as to create a sound basis for the future.

116. The Special Rapporteur has been informed of possible measures which could indicate a weakening of judicial independence in Croatia. She calls on the competent authorities to ensure that competent judges are never dismissed on the basis of their political opinion or ethnicity.

117. Regarding freedom of the media, the Special Rapporteur has noted a disturbing trend regarding hate speech and recommends that effective measures, including legal action by the competent authorities, be taken to combat incitement to hatred, particularly in the fields of education and the media. The Government should, moreover, show clearer support for social reconciliation in its statements made to the press and broadcast media.

118. In the region of Eastern Slavonia, Baranja and Western Sirmium (the Region), despite the admirable work of UNTAES and repeated declarations of goodwill, the Government of Croatia has not taken sufficient action to provide all of the Region's residents with a strong sense of security and membership in Croatian society. The Government must take steps to ensure that persons coming to the Region from elsewhere in Croatia, including members of the Transitional Police Force, respect at all times the rights of local residents.

119. Although some progress has been made in terms of the Region's reintegration into Croatia, many obstacles remain. Discrimination against ethnic Serbs by Croatian officials must cease; reconstruction efforts in the Region must continue; and legislation regarding the reintegration of the local judiciary must finally be implemented. The rights both of displaced Croats wishing to return to the Region and Serbs wishing to move back from the Region to their former homes elsewhere in Croatia must be taken simultaneously into account.

120. With the UNTAES mandate possibly coming to an end on 15 January 1998, the Special Rapporteur believes that a continued international presence, working together with Croatian authorities and the local population, can play a constructive role in the continued re-establishment of civil society in the Region. She urges that full consideration be given to the deployment of an international presence consistent with the terms of the basic agreement (A/50/757-S/1995/951, annex, para. 11), including possible participation of the Office of the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe, the Council of Europe and other international organizations.

121. Finally, the Special Rapporteur would like to draw attention to the technical cooperation project planned by the Office of the United Nations High Commissioner for Human Rights in consultation with the Government of Croatia. The Special Rapporteur believes that a project emphasizing training in human rights for professionals involved in law enforcement and the rule of law, as well as universal human rights education for the population, can be of great value to Croatia. She hopes that the project will be initiated at the earliest possible opportunity.